

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



December 9, 1996

ALL COUNTY INFORMATION NOTICE NO.

I-62-96

TO: ALL COUNTY WELFARE DIRECTORS

REASON FOR TRANSMITTAL

- ☐ State Law Change
- ☐ Federal Law Change
- ☐ Court Order or Settlement Agreement
- ☒ Clarification Requested by One or More Counties
- ☐ Initiated by CDSS

**SUBJECT: PERSONAL RESPONSIBILITY & WORK OPPORTUNITY
RECONCILIATION ACT OF 1996, PUBLIC LAW 104-193**

The purpose of this transmittal is to provide County Welfare Departments (CWDs) with answers to some of the most commonly asked questions regarding Public Law 104-193, the Personal Responsibility and Work Opportunity Act of 1996. These responses are based on the most current information available and may be subject to change dependent upon further information received from the United States Department of Agriculture, Food and Consumer Service (FCS).

General Questions

1. Regarding implementation for continuing cases, define "when the case is next reviewed."

Per FCS Administrative Notice 96-54 dated September 26, 1996, state agencies are required to implement no later than the next recertification. However, if a household reports a change and benefits are adjusted, state agencies may implement at that time, but are not required to do so. Therefore, CWDs are instructed to implement no later than the next recertification.

2. When will relevant forms and Notices of Action (NOA) be revised or developed?

CDSS is currently in the process of developing language for NOAs and form revisions. These will be provided as soon as possible.

3. If an applicant or recipient refuses to sign the application addendum (Temp 2131) should the application be denied and if so, on what basis?

The application addendum is a required element of the application process. If it is not completed or is unsigned, the application must be denied in accordance with Manual Section (M.S.) 63-300.321, 63-301.3, and 63-505.1.

M.S. 63-102h(2)(c)

Definitions

1. Does "residence of another person" mean the same residence or the same person?

If an individual is at a constant address (of another person) for a 90-day period, their status as homeless is terminated for food stamp purposes. The determinant factor in this definition is the "residence", not the particular person the recipient is residing with at that residence.

2. Does the 90-day limit apply once in a lifetime, once per application, or once per incident of homelessness?

An individual is limited to 90-days at the residence of another person. This regulation places no limit on the number of times the individual can be identified as homeless. Therefore, the 90-day limit applies for each incident of homelessness.

3. When a person moves from one individual's home to another, is a new 90-day time period started?

Yes. As stated in #2 above, the 90-day time limit applies to the residence of another person. If that residence changes, a new 90-day time period begins.

4. When does the 90-day time period start?

The 90-day time period starts when the individual begins residing in the residence of another person on a temporary basis. If this is discovered after the fact, and a period in excess of 90 days has already elapsed, the individual would lose their status as homeless and appropriate case action must be taken. However, in no circumstance should the 90-day period be considered to have started prior to 9/22/96.

5. When a recipient loses their homeless status, should the household be changed from prospective to retrospective budgeting and a CA 7 issued?

Such households are to be changed to retrospective budgeting in accordance with M.S. 63-504.51.

6. Is a NOA required notifying the recipient that their 90-day homeless period has expired and that they are no longer considered homeless?

If the change results in an adverse action, the notice requirements stated in M.S. 63-504.261 must be followed.

M.S. 63-402.142(a)(2)

Household Concept

1. Does this provision apply if the "child" living with their parent(s) is under 22 years of age, but has a spouse over 22 also living in the home?

Yes. This provision states that if the child is under 22 and lives with his/her parents, separate household status cannot be granted regardless of the age of the spouse. However, if in this example both individuals resided with the parents of the spouse who is over 22, separate household status could be granted.

Example: Household consists of 25 year old husband, 20 year old wife, and their child. If they reside with her parents, they cannot be considered a separate household. If they reside with his parents, separate household status can be granted.

2. If the under 22 year old child's parent is on SSI, is a new application (as one household) required in order to continue benefits?

No. In this example, the SSI parent is excluded from the household by M.S. 63-402.225.

M.S. 63-403, 63-405
Citizenship and Alien Status

1. How are the resources and income of ineligible aliens treated?

The resources of excluded aliens are to be counted in their entirety as stated in M.S. 63-503.442(a). The income of excluded aliens is to be pro-rated to the remaining household members in accordance with M.S. 63-503.442(b). If the excluded alien is in receipt of Aid to Families With Dependent Children (AFDC), the household's AFDC payment should be pro-rated equally among the household members to determine the amount that is to be budgeted for food stamp purposes.

Example: AFDC household consists of unmarried Legal alien father, unmarried citizen mother and their 2 citizen children. AFDC grant for family is \$707. Father is eligible for AFDC but ineligible for food stamps. Divide the total AFDC grant (\$707) by the number of persons in the family (4). This results in \$176.75 as each person's share of the family's income. Multiply this amount (\$176.75) times the number of eligible food stamp household members (3). The result is \$530.25. Then divide the excluded father's share of household income (\$176.75) by the number of persons in the family (4). The result is \$44.19. Multiply this amount (\$44.19) times the number of eligible food stamp members (3). The result is \$132.57. This amount (\$132.57) is added to the previously computed household's share (\$530.25). The result is \$662.82. This is the food stamp household's countable AFDC income.

2. Can the 40 work quarters requirement be satisfied by combining the quarters of spouses? For example, the husband and wife each have 20 qualifying quarters.

Yes, per FCS Administrative Notice 97-13, dated October 22, 1996.

3. Is it possible for qualifying quarters to be earned while the individual was a resident of another country?

Yes, per written clarification from FCS dated October 24, 1996, if the person was employed in this country, quarters can be credited even if the individual was residing in another country at the time. However, according to guidance from the Social Security Administration (SSA), quarters worked in another country by non-citizens cannot be counted.

4. Must a "living spouse" actually be living with a veteran or active duty individual in order to be eligible?

No. Per SSA guidance, the living spouse need not be residing with the veteran or active duty personnel in order to be credited with that person's qualifying quarters. Status as "spouse" is forfeited only upon a final decree of divorce. Additionally, widows and widowers qualify as living spouses.

5. The Social Security earnings printout shows earnings by year, not quarter. Is it possible to earn all the credits for a year in one quarter?

Yes. If the alien has sufficient earnings in a quarter to satisfy the amount required for that particular calendar year, they should be credited with 4 quarters.

6. The Act states that qualifying quarters earned by a parent of an alien under the age of 18 can be credited to the alien. Does the alien have to be under 18 currently for this provision to apply?

No. The earnings of the parent must have been earned while the alien was under 18. The current age of the alien is not a consideration in this circumstance. The marriage or emancipation of a minor has no impact on this provision.

7. How can a self-employed individual verify work quarters?

Self-employed persons are, in most circumstances, required to make contributions to Social Security. If an individual certifies that they have sufficient qualifying quarters, and a portion (or all) of their earnings were from self-employment, their self-declaration must be accepted in lieu of documentary evidence.

8. If the household was receiving assistance from a federal means-tested program, but the alien was excluded from such assistance, would the alien's earnings during this period be credited toward the qualifying quarters?

The limitation regarding quarters earned while receiving assistance from a federal means-tested assistance program does not go into effect until January 1, 1997. At that time, income earned by the alien in such circumstances can be credited toward qualifying quarters if the alien is excluded from the federal means-tested assistance program.

9. Does an individual have to pay into Social Security in order for their earnings to be credited toward qualifying quarters?

SSA is solely responsible for determining if an individual has sufficient qualifying quarters for eligibility. Pending receipt of SSA verification, any self-declared earnings (earned in the United States) can be used to establish the 40 qualifying quarter requirement.

10. What is the definition of a qualifying quarter?

SSA is solely responsible for determining if an individual has sufficient qualifying quarters for eligibility. For purposes of self-certification, a qualifying quarter is defined as a quarter in which an individual is credited with sufficient earnings to satisfy the requirements for a particular year.

11. If a recipient alien case is terminated for a reason other than alien status, and the household reapplies after a break in aid, is this considered an applicant case and denied under the new provisions?

If a non-citizen recipient is terminated for a reason unrelated to alien status and subsequently reapplies after a break in aid, such individuals are considered as recipients, and cannot be terminated under the new provisions until April 1, 1997, at the earliest. Such individuals must be terminated no later than August 22, 1997.

M.S. 63-407.21(g), .5, .6, 63-408.1, .2 and .6

FOOD STAMP SANCTIONS

1. What acts of noncompliance lead to the imposition of Food Stamp sanctions and what is the length of these sanctions?

Work registrants are sanctioned for noncompliance with any of the Food Stamp work requirements including failure to participate in the Food Stamp Employment and Training (FSET) program (M.S. 63-407.51); voluntarily quitting employment, regardless of their designation as the principal work registrant/head of household (M.S. 63-408.1); and for reducing the number of hours worked (averaged monthly) to less than 30 per week (M.S. 63-407.55). Food Stamp sanctions now last until the latter of the date eligibility is again established or one month for the first instance of noncompliance, three months for the second instance, and six months for the third or subsequent instance (M.S. 63-407.531, .532, and .533).

2. Are different age limits established for compliance with the Able-Bodied Adult Without Dependents (ABAWD) work requirement than for Food Stamp work registration and compliance with the Food Stamp work requirements at M.S. 63-407.4?

Yes. Certain able-bodied food stamp recipients ages 18 to 50 are subject to the new ABAWD work requirement. All nonexempt work registrants ages 16 to 60, including those subject to the ABAWD work requirement, must register for work under the Food Stamp Program.

3. During the first month of a second instance sanction, an individual becomes exempt from the work registration requirements. Does the sanction immediately end or must it continue for the remainder of the minimum three month period?

Sanctions can no longer be ended through exemption or program compliance prior to completion of the minimum sanction period of one, three, or six months, depending on the instance of noncompliance. In the example provided, the sanction cannot end prior to the end of the three-month sanction period (compare M.S. 63-407.532 and .61).

4. Do voluntary quit sanctions still apply to those who have terminated employment without good cause within 60 days prior to the date of application?

Until federal clarification is received, persons who voluntarily quit employment prior to being certified as eligible for food stamps should not receive Food Stamp sanctions. A registrant who quits a job without good cause following certification shall be subject to the Food Stamp sanctions identified in the response to question #1 above.

5. Do voluntary quit sanctions still apply only if the job quit involved employment of at least 20 hours per week, or provided weekly earnings at least equal to the federal minimum wage multiplied by 20 hours?

Yes. The definition of employment at M.S. 63-408.1 is still in effect.

6. Should a household member who is not the primary wage earner or the head of household be sanctioned if that individual voluntarily quits employment?

Yes. Per M.S. 63-408.1, any food stamp work registrant who quits a job of more than 20 hours per week without good cause shall receive a Food Stamp sanction.

7. The exemption of working 30 or more hours per week does not apply to persons who voluntarily quit employment. Is this exemption also not applicable to those who reduce the number of hours worked to less than 30 per week?

At the time an individual reduces the number of hours worked to less than 30 per week, the 30 hour exemption at M.S. 63-407.21(g) does not apply. The individual would receive a Food Stamp sanction for the reduction in hours, unless he/she met other exemption or good cause criteria (see M.S. 63-407.551).

8. Do all adult household members complete the addendum to the application to insure that each adult member understands the consequences of voluntarily quitting employment, reducing hours worked, or failing to comply with Food Stamp work requirements?

No. The individual who completes the addendum represents all members of the household during the application process.

M.S. 63-407.842
FSET ADMINISTRATION

1. If General Assistance (GA) recipients are targeted as FSET participants, can FSET funds still be used to fund GA work activities which also serve as FSET components?

Yes. Counties use of FSET funds has not been limited with the passage of the PRWORA.

M.S. 63-502.2(b)(2)(D)
Income, Exclusions and Deductions

1. Define "transitional housing for the homeless".

"Transitional housing" is defined in M.S. 63-102(t)(5). A time limited residency is so determined when the household states that it is temporary, or a time limit is imposed by the CWD or the housing unit.

2. Are cash AFDC homeless assistance payments treated differently than vendor paid AFDC homeless assistance?

No. Both types of homeless assistance payment would be treated the same. Until further clarification is received from FCS, however, the injunction issued in the Hamilton v. Lyng/Yeutter lawsuit is still in effect. Therefore, all AFDC homeless assistance payments are to be excluded from budgeting for food stamp purposes.

M.S. 63-502.353(c)
Income, Exclusions and Deductions

1. Regarding the limitation on households switching from actual utility cost to SUA at recertification only, will the SAWS 2A and the DFA 285 A2 be revised?

Yes. Forms revisions are being developed and will be provided as soon as possible.

2. If a client moves during their certification period, are they still limited to switching only at recertification?

No. A household which moves into a living situation where it is prohibited from using either the SUA or actual expenses by regulation may switch during the certification period.

M.S. 63-503.51
Determining Household Eligibility and Benefit Levels

1. Under the provision prohibiting an increase in food stamps when a household's income is reduced because of non-compliance with the requirements of a federal, state, or local means-tested public assistance program, does this include all types of sanctions?

Yes. As stated in the provision, food stamps cannot be increased as a result of any non-compliance resulting in a reduction of benefits in the other means-tested program. This includes disqualifications, sanctions, reductions due to client-caused overpayment, and penalties due to late filing of monthly income reports for AFDC. In essence, this provision applies to any reduction in the other program caused by non-compliance with a requirement of that program. This provision does not apply to termination of the other program's benefit. County specific General Assistance or General Relief sanctions and disqualifications would be treated accordingly.

2. Please provide a case example for budgeting purposes.

AFDC household of three persons (father, mother, one child). The household has no other income, therefore the AFDC grant is \$594. The father is sanctioned and deleted from AFDC effective January 31 for non-compliance. The AFDC grant is reduced to \$479 for February and ongoing until the sanction is lifted. For food stamps, continue budgeting the AFDC grant amount prior to the sanction (\$594) February and continuing. The CA-7 for March reflects that the mother received \$200 in unearned income. The AFDC grant for May (retrospectively budgeted) is \$335 [Minimum Basic Standard of Adequate Care (MBSAC) for two persons, \$535, minus the \$200 reported unearned income]. For food stamps, the AFDC amount budgeted would be the MBSAC for three persons (\$663) minus the \$200 unearned income, or \$463. This is the amount that the household would have received prior to the sanction.

M.S. 63-801.312, 63-801.4, and 63-801.7
Claims Against Households

1. If a recipient agrees (voluntarily) to repay more than the required minimum on an administrative error overissuance, can more be collected?

Yes. However, if the voluntary repayment is accomplished through allotment reduction, the maximum amount allowable is 10% of the household's allotment or \$10, whichever is greater.

2. In reference to not allowing the earned income deduction for failure to report income in a timely manner, define "timely manner".

For monthly reporting households, "timely manner" is defined as the extended filing date, the first day of the issuance month. For non-monthly reporting households, "timely manner" is defined as within 10 days of the date the change becomes known to the household.

3. Does the provision disallowing the earned income deduction apply to all overissuances discovered after 9/22/96 or only to income not reported timely after 9/22/96? Are all uncollected overissuances to be recomputed disallowing the 20% deduction?

Only income not reported in a timely manner after September 22, 1996 is affected by this provision. Previous overissuances do not need to be recomputed.

4. When recomputing the budget because of unreported earnings, is the 20% deduction disallowed for all earnings or just the unreported amount?

The deduction is disallowed for the unreported portion of earned income.

5. Is there a "good cause" provision for failing to report income in a timely manner?

Currently there is no good cause provision for failure to report income in a timely manner.

PENALTIES 20-300.3

1. What penalties apply when a conviction was made before September 22, 1996, but the penalties were not applied until after September 22, 1996?

The new penalties apply with convictions (through an Administrative Disqualification Hearing [ADH] or Court conviction) that are made on or after September 22, 1996 for violations that were committed on or after that date, otherwise the prior penalties apply.

2. Is the Disqualification Consent Agreement (DCA) the same as the Administrative Disqualification Hearing process?

No. The DCA is a document signed between a defendant and the prosecuting attorney, either a District Attorney, Assistant Attorney General, or an Assistant United States Attorney. In effect they are part of plea bargains in a court setting either criminal or civil. A case must be at least considered for prosecution and the DCA must be co-signed or endorsed by the prosecuting attorney.

The ADH is an administrative hearing process where the welfare agency requests a hearing on the individual to determine if an Intentional Program Violation (IPV) (with its resultant disqualification penalty) has been committed. A defendant may sign a waiver to a hearing, which in effect is similar to a DCA. However, the Waiver is sent directly to the ADH and is not signed by a prosecutor (or equivalent), it is not necessarily a plea bargain; the person is simply waiving the right to attend the hearing. The effect is the functional equivalent of a "no-show" and judgment in absentia. The ADH will be held/reviewed and a ruling issued based on evidence available to the ADH Administrative Law Judge.

3. If a person signs the DCA for falsifying identity or place of residence in order to receive multiple food stamp benefits simultaneously under the Food Stamp Program, would they be disqualified for the 10 year period?

Yes.

4. If someone is convicted of Food Stamp trafficking or for falsifying identification or place of residence in order to simultaneously receive multiple Food Stamp benefits in other than local court (i.e., Federal court), is the CWD still responsible for submitting the DPA 524 Disqualified Recipient Report?

Yes.

5. Is an IPV hearing required for a 10 year disqualification to be imposed?

No. When a person is found by a state agency, that is, via the Administrative Disqualification Hearing process (or signs a Disqualification Consent Agreement), or convicted by federal or state court relating to this provision, counties will discontinue the person and submit a DPS 524 Disqualified Recipient Report indicating the length of the penalty that applies. This form will be forwarded to the CDSS Fraud Bureau as described in the March 18, 1991, All County Information Notice I-29-91.

FELONS

1. How will CWDs be notified if someone is a fleeing felon and/or probation/parole violator? Will these be tracked through MEDS/IEVS Applicant System?

The applicant will self-identify through a question on the application and sign under a penalty of perjury. However, if the CWD becomes aware that the applicant/recipient is a fleeing felon from any source, it must act on the information. The Fraud Bureau is looking into establishing a matching system with the Department of Justice that would be part of the IEVS System.

2. We know that fleeing felons are not eligible. If the Food Stamp applicant certifies that no member of the household is a Fleeing Felon or Probation/parole Violator (FF), and we later learn that the household actually contained a FF, is there any consequence to the applicant in regards to filing a fraudulent application? What is the penalty and/or, is there an overissuance?

Yes. If the applicant falsifies information on the application, that person will be disqualified from the case and an overissuance established and collected according to the regulations already established.

3. If the CWD is notified that someone is a fleeing felon and/or probation violator via a law enforcement official (i.e., they contact us requesting information, etc.), can the CWD act on the verbal information or do we need something in writing?

The issue is not addressed in federal Food Stamp law. We recommend that the action be verified.

4. If a person has a felony warrant, is arrested and then released on bail, is he/she eligible to food stamps?

Yes, if the person is otherwise eligible for Food Stamps and he/she remains in compliance with the terms of their bail.

5. At what point in time, in relation to the issuance of a felony warrant, does a person become a fleeing felon?

A felony warrant will usually have been issued, however, one is not required for a person to be considered a fleeing felon. A person becomes a fleeing felon at the point the person is fleeing to avoid prosecution, custody or confinement after conviction for a crime or attempt to commit a crime, or is in violation of probation or parole.

For any questions regarding Fraud provisions, contact Christine McCaleb at (916) 445-0031. For questions regarding Work Requirements, contact Karen Kennedy at (916) 657-3400. Any other questions should be directed to the Food Stamp Policy Implementation Unit at (916) 654-1896.



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